In the High Court of Punjab and Haryana at Chandigarh

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C.W.P. No.16388 of 2003

.....

Date of decision:19.2.2007

O.P. Seth

.....Petitioner

v.

Electronic System Punjab Ltd.

.....Respondent

....

Coram: Hon'ble Mr. Justice S.S. Nijjar
Hon'ble Mr. Justice S.S. Saron

Present: Mr. P.K. Dutt, Advocate for the petitioner.

Mr. Rahul Sharma, Advocate for the respondent.

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S.S. Nijjar, J. (Oral):

The petitioner on 1.3.1999 on attaining the age of superannuation, retired as Deputy General Manager from the respondent-Company. In this petition under Articles 226/227 of the Constitution of India he seeks directions for the release of his retiral dues which have been withheld since 1.3.1999 without any reason.

In the reply filed by the respondent it is submitted that the company had incurred heavy losses. There had been irregularities committed in its functioning and an inquiry was got conducted. The petitioner, it is submitted, was one of the erring officers, who was found liable for the

irregularities that had been committed. Therefore, vide letter dated 11.8.2003 (Annexure-P.8) the petitioner was informed that the management of the company had decided that the employees who were responsible for not taking timely action shall be charged for negligence and recovery would be effected from their dues.

We have heard learned counsel for the parties.

Mr. P.K. Dutt, Advocate, learned counsel for the petitioner submits that the respondent wrongly withheld the retiral benefits of the petitioner for a period of five years without even issuing a charge-sheet. Even though during the pendency of the petition the respondent has released the retiral benefits, an amount of Rs.50,000/- has still wrongly been withheld.

In response, Mr. Rahul Sharma, Advocate, learned counsel for the respondent submits that during the pendency of the petition, the retiral benefits have been paid to the petitioner in accordance with law. An amount of Rs.50,000/- which has been withheld would have to abide by the decision which is taken on the audit objection that has been raised. In case the audit objection is ultimately dismissed and the petitioner is held entitled to the amount, the same will be paid to the petitioner forthwith.

Mr. Dutt points out that the withholding of the retiral benefits excepting Rs.50,000/- by the respondent was without justification and, therefore, the petitioner would be entitled to grant of interest on delayed release of the retiral benefits.

Mr. Sharma, however, submits that the respondent-company has incurred heavy losses and, therefore, interest on the delayed payment

may not be imposed.

We have given our thoughtful consideration to the matter. It is not in dispute that the petitioner retired from service of the respondent on 1.3.1999 on attaining the age of superannuation. For the irregularities which, according to the respondent, has been committed by the petitioner, the petitioner admittedly has not been charge-sheeted. Besides, except for an amount of Rs.50,000/- that has been withheld the other retirement benefits have been paid. There is absolutely no justification for the delay in the payment of the retiral benefits which were due to the petitioner. The retirement benefits due to an employee are not a bounty nor a matter of grace to be paid on the sweet will of the employer. The same are in fact a right and hard earned benefit of long service rendered by him. The employee acquires a right to pension and other retirement benefits on the date he retires from service. To deprive an employee of his vested right for the grant of retirement benefits is manifestly unreasonable and arbitrary besides being violative of Article 14 of the Constitution. In the circumstances, we find force in the submission made by the learned counsel for the petitioner with regard to the grant of interest on the delayed payment of the retirement benefits. However, keeping in view the financial health of the respondent we restrict grant of interest @ 6% per annum on the delayed payment of the retiral benefits.

Accordingly, the writ petition is disposed of with a direction to the respondent to pay the balance retiral benefits that may be due to the petitioner except for the amount of Rs.50,000/- that has been withheld and also pay interest @ 6% per annum from the date the amount was due till the

date of issue of order of payment. The respondent shall also take a final decision on the audit objection within a period of three months from today.

(S.S. Nijjar)
Judge

February 19, 2007. **(S.S. Saron)**
Judge

hsp